

No.305

AMARAVATI, TUESDAY, MARCH 5, 2024

G.3980

NOTIFICATIONS BY GOVERNMENT

--X--

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

B.C.Welfare Department – Appeal Petition filed by Sri Pachava Mahendra, S/o Peraiah, presently working as Senior Assistant, Government General Hospital, Nellore, SPSR Nellore District against the proceedings D.Dis.No.COLNLR-CSE3/32/2021, dated: 24.09.2022 of the Collector and District Magistrate, SPSR Nellore District under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders -Issued.

BACKWARD CLASSES WELFARE (F) DEPARTMENT

G.O.Ms.No.17

**Dated:01.03.2024
Read the following:**

1. Proceeding of the Collector & District Magistrate, SPSR Nellore District vide D.Dis.No.COLNLR-CSE3/32/2021, dated: 24.09.2022.
2. Appeal petition filed by Sri Pachava Mahendra, S/o Peraiah, dated:21.10.2022.
3. Govt., Memo.No.1910970-2301/BCW/F/2023, dated:28.01.2023.
4. From the Collector and District Magistrate, SPSR Nellore District Rc.No.C5 (Magl)/415/2022, dated: 16.02.2023.
5. Representation of Sri Kondasani Venkata Srikanth, Visakhapatnam dated:11.03.2023.
6. Govt. Memo No. 1486296/BCW/F/2023, dated: 25.01.2024.

<><><>

ORDER:

In the reference 1st read above, the Collector & District Magistrate, SPSR Nellore District has issued orders cancelling "Vaddera (BC-A)" Caste Certificate issued in favour of Sri Pachava Mahendra, S/o Peraiah by the Mandal Revenue Officer, Nellore dated:23.02.1991 and Smt. Pachava Gargei Malavika Chakravarty, D/o Mahendra by the Tahsildar, Nellore dated: 29.06.2007.

2. In the reference 2nd read above, Sri Pachava Mahendra, S/o Peraiah has filed an appeal petition before the Government, against the proceedings of the District Collector issued in the reference 1st read above, the same has been admitted by the Government (appellate authority) and issued stay orders on proceedings of the District Collector, SPSR Nellore and also called for the para-wise remarks and connected records from the Collector and District Magistrate, SPSR Nellore District vide reference 3rd read above.

3. In the reference 4th read above, the Collector and District Magistrate, SPSR Nellore District has furnished the Para-wise remarks and the connected records on the Appeal Petition filed by Sri Pachava Mahendra, S/o Peraiah and Smt. Pachava Gargei Malavika Chakravarty, D/o Mahendra.

4. In the reference 6th read above, hearing has been issued to the appellants, the Counsel for the Appellant, and Mr. K. Venkata Srikanth of Old Gajuwaka, Visakhapatnam, who was impleaded in the current caste appeal vide reference

5th read above and they were requested to attend for the hearing before the appellate authority on 06.02.2024. They were also requested to attend for the hearing along with all documentary evidences/Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government.

5. After hearing both the sides and on perusal of the records/the copies of evidences/academic record/grounds filed by the parties/the para-wise remarks submitted by the Collector and District Magistrate, SPSR Nellore, the Appellate Authority observed as follows:

CONTENTIONS OF THE APPELLANTS:

- i. The Appellants Sri Pachava Mahendra Smt. Pachava Gargei Malavika Chakravarty, D/o Mahendra contended that the Respondent authority, relying on reports from the Revenue Divisional Officer and B.C. Welfare Officer, dismissed allegations by Sri Kondasani Venkata Srikanth. They confirmed that Sri Pachava Mahendra and his daughter Malavika Chakravarthy belong to the Vaddi (BC-A) community as per caste certificates. Considering the mother's affiliation with Vaddi (BC-A) and the provision in G.O. Ms.No.371 dated 13/04/1976 allowing the adoption of either parent's caste, the authority found no irregularity in granting the BC-A certificate.
- ii. The Appellant argues that the respondent failed to acknowledge crucial facts, such as the appellant's upbringing in the Vaddera Community, adherence to customs since childhood, and marriage within the same community. Despite the appellant's father belonging to the Kamma Community, there is no significant connection with paternal grandparents in terms of caste and tradition. The appellant's upbringing and marriage clearly align with the Vaddera Community's customs, establishing a consistent adherence to their principles.
- iii. The respondent failed to appreciate the fact that the BC-A certificates were issued on the basis of the 1st appellant's mother belonging to Vaddi (BC-A) community and subsequently the daughter of the appellant i.e., the 2nd appellant has also studied on Vaddi (BC-A) community certificate.
- iv. The District Collector and Magistrate didn't follow the guidelines of the Hon'ble Supreme Court i.e., held, caste of offspring is essentially a question of fact, it cannot be determined in complete disregard to attending facts of the case. There may be a presumption that child takes the caste of the father, such presumption is neither conclusive nor irrebuttable by child of such marriage to lead evidence to show that he/she irrebuttable by child of such mother who belonged to SC/ST or was treated as member of the community to which the mother belonged, views expressed in Valsamma, Punit Rai and Anjan Kumar, Cases, discussed (2012) 3 Supreme Court Cases 400.
- v. The respondent failed to examine and consider the fact that the Appellant in fact did not obtain the caste certificate by any fraudulent means and sought to make an enquiry after long lapse of 31 years and that at the time of entry into services he has submitted the caste certificate issued by the competent authority.

REMARKS OF THE RESPONDENTS:

- a) The D.L.S.C. has assigned the District B.C. Welfare Officer with a detailed inquiry to determine caste status covering the details of anthropological, ethnological traits, religious practices, rituals, customs, marriage and death ceremonies, burial methods, food habits, occupation, dress style, native place, and supporting evidence like school records, service records, birth certificates, matrimonial relations, and familial background. The District B.C. Welfare Officer, considering these factors, reported that the petitioner's mother, Smt. Tirupathi Nagamma, stated they adopted the "Vadde" (BC-A) community after their marriage in 1960, aligning with the provisions of G.O.Ms.No.371 dated 13.04.1976, and secured employment in the Government sector.
- b) The petitioner's progeny and blood relatives, despite officially belonging to the 'Vadde' (BC-A) Caste, are reported to be practicing the traditions of the 'Kamma' (OC) Caste. Their behavior indicates a preference for identifying themselves with the higher-caste 'Kamma' (OC) rather than acknowledging their lower-caste status as Vaddi (BC-A). This contradicts the guidelines outlined in the relevant Government Order, as the petitioner's family is not aligning with the social atmosphere of the Vaddi (BC-A) caste while still benefiting from the BC Reservation.
- c) Though the petitioner, and his brother and sister are residing with their maternal uncle, they are not brought up in the community of Vaddera (BC-A) community as is evident from the depositions made by the petitioner's own brother and sister, that the petitioner's parents have migrated to Nellore town long back from Narrawada village of Duttalur Mandal of Nellore District and their children brought up under the influence of their father's community.
- d) The Government of India issued guidelines in Lr.No.39/37/73-SCT, Ministry & Home Affairs dt: 04.03.1975 for determining the Caste of the child of Inter-caste married couples. It is necessary to examine each case with reference to these guidelines and where a child of Inter-Caste marriage can be treated as belonging to scheduled Castes, STs and BCs in accordance with those guidelines, the child is eligible for reservation in services etc allowed for that caste.
- e) The nexus between the child and the community or class or caste is a real test irrespective of the fact whether the accommodating class or caste or community is a scheduled, the mother of the child is a member of the SC Community, it is possible that the child is accepted by the community of his father's and brought up in the surroundings of his father's relations.
- f) The petitioner, belonging to the Kamma (OC) Caste, has not provided the original caste certificate 'Vaddi (BC-A)' issued by a competent authority, presenting instead a certificate from an authority deemed not competent. The petitioner's family migrated from Narrawada Village to Nellore town, and their children were raised under the influence of the father's community. Depositions from the 2nd petitioner, the petitioner's brother, and sister indicate that the family is not treated as Vadde (BC-A) but identified as Kamma (OC) in their surroundings and among relatives. They follow the traditions of the Kamma (OC) community and are enrolled as

Vadde (BC-A) only during schooling.

- g) Based on the above, the Collector and District Magistrate, SPSR Nellore District has finally stated that the contention of the petitioner deserves no consideration and they are invented for the purpose of appeal and requested that the appeals filed by the petitioners may be dismissed and stay granted may kindly be vacated.

6. The Government (Appellate Authority) is opined that it is clearly evident that individual does not belong to 'Vaddera'-BC(A), basing on the findings of the District Level Scrutiny Committee, Caste Certificate issued in favour of Sri Pachava Mahendra, S/o Peraiah by the Mandal Revenue Officer, Nellore dated: 23.02.1991 and Smt. Pachava Gargei Malavika Chakravarty, D/o Mahendra by the Tahsildar, Nellore dated: 29.06.2007 were cancelled by the Collector and District Magistrate, SPSR Nellore District declaring that they do not belong to 'Vaddera'-BC(A), but, belongs to 'Kamma' (OC) vide reference 1st read above. Therefore, the opinion rendered by the DLSC/Collector and District Magistrate, SPSR Nellore District holds good.

7. Government after careful examination of the entire matter and in exercise of the powers conferred under section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No.16 of 1993), decide that the appeal petition filed by Sri Pachava Mahendra, S/o Peraiah Smt. Pachava Gargei Malavika Chakravarty, D/o Mahendra does not deserve any interference. Hence, Proceedings of the Collector and District Magistrate, SPSR Nellore District issued in the reference 1st read above is hereby upheld duly dismissing the appeal petition filed by Sri Pachava Mahendra, S/o Peraiah and the certificates issued earlier and the stay orders issued in the 3rd reference read above are deemed to be cancelled.

8. The Collector and District Magistrate, SPSR Nellore District shall take necessary consequential action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**G.ANANTHA RAMU
SPECIAL CHIEF SECRETARY TO GOVERNMENT**

To

The Collector and District Magistrate, SPSR Nellore District (relevant original records enclosed).

- 1) Pachava Mahendra, S/o Peraiah,
Senior Assistant,
Government General Hospital,
Nellore, SPSR Nellore District.
- 2) Smt. Pachava Gargei Malavika Chakravarthi,
D/o Pachava Mahendra, R/o 28-2-14/3,
P. C. Naidu Nagar, Mypadu road, SPSR Nellore.
- 3) Sri. Kondasani Venkata Srikanth,
D.No.8-4-27, Maruthi, Old Gajuwaka,
Visakhapatnam - 530026.

Copy to:

The Director, B.C.Welfare, A.P., Vijayawada.


The OSD to Hon' Minister (BCW).

PS to Spl. CS to Government, B.C. Welfare Department, A.P.Secretariat,
Velagapudi.

~S.C/S.F.

//FORWARDED::BY ORDER//


SECTION OFFICER


01/02/24